

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2014-86
)	
THE VIRGIN ISLANDS WATER AND POWER)	
AUTHORITY,)	
)	
Defendant.)	
)	

ATTORNEYS:

Laura Jane Rowley
Myles E. Flint
United States Department of Justice
Washington, D.C.
For the United States,

Robert Gee Smith
Baltimore, MD
Lorelei M. Farrington
V.I. Water and Power Authority
St. Thomas, VI
For the Virgin Islands Water and Power Authority.

ORDER

GÓMEZ, J.

Before the Court is the motion of the United States to approve a proposed amended consent decree.

The Virgin Islands Water and Power Authority ("WAPA") owns and operates facilities that provide water and electricity to the people of St. Thomas and St. John. These facilities have permits as required under the Clean Air Act, 42 U.S.C. § 7401 *et seq.* ("CAA").

The St. Thomas Facility (the "STTF") possesses a Title V permit. The STTF is also subject to the Prevention of Significant Deterioration ("PSD") provisions of the CAA.¹

On November 10, 2010, the EPA issued two Notices of Violation for the STTF. On May 7, 2014, the EPA issued a Notice of Violation for the PSD provisions of the CAA. The EPA alleged that the defendants failed to comply with various environmental regulations.

On October 30, 2014, the United States brought suit in this Court. The Complaint included 19 different claims for relief. WAPA never filed an Answer. On September 24, 2015, the United States filed a "Notice of Settlement." See ECF No. 16. The Notice of Settlement included a proposed consent decree for the Court's approval (the "consent decree"). See *id.* A motion to approve the consent decree was also filed with the Court. On September 30, 2016, the Court approved and entered the consent decree. See ECF No. 23.

To ensure compliance with the Consent Decree, quarterly hearings are held before the Court. At the conclusion of one such hearing on February 26, 2018, the Court held a status

¹ 42 U.S.C. §§7470-7492 establishes the rules for locations that have already attained the national standards for PSD and wish to create facilities that would increase the level of pollution in a given area.

conference in this case. At the status conference, the Court requested that the parties draft a proposed amended consent decree to ensure that the consent decree remains a current and accurate reflection of the injunctive relief requirements for the St. Thomas and St. John Facilities.

Over the course of approximately ten months, several iterations of the proposed Amended Consent Decree were exchanged between the parties. Over that period, the several iterations were the subject of status conferences held before the Court.

On January 7, 2019, the United States filed a "Notice of Settlement." See ECF No. 71. The Notice of Settlement included a proposed Amended Consent Decree for the Court's approval. See *id.* The Court has since undertaken a review of the proposed Amended Consent Decree.

The premises considered, it is hereby

ORDERED that the motion to approve the proposed Amended Consent Decree is **GRANTED**; it is further

ORDERED that the parties shall abide by the following schedule:

An evidentiary hearing shall be held on the fourth Monday of May, August, November, and February unless otherwise ordered by the Court. At the hearing, the parties shall be prepared to present such testimony and evidence as are necessary to apprise the Court fully of the status of the Consent Decree; and it is further

ORDERED that not later than one week before any given scheduled quarterly evidentiary hearing, the parties shall inform the Court through an ECF filing whether WAPA is in compliance with the current timetable for the decree. The parties shall also advise the Court whether they wish to have the Court cancel any such quarterly hearing because the need for such a hearing has been obviated by WAPA's compliance with the consent decree.

S\ _____
CURTIS V. GÓMEZ
District Judge